

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHRISTOPHER KRACZEK,

Plaintiff/Counter Defendant,

Case No. 19-cv-938-pp

v.

K&S TOOL, DIE & MANUFACTURING INC.,

Defendant/Counter Claimant.

**ORDER GRANTING JOINT MOTION FOR SETTLEMENT APPROVAL AND
CLASS CERTIFICATION (DKT. NO. 19) AND SETTING FAIRNESS HEARING**

On August 18, 2020, the parties filed a joint motion for preliminary approval of class action settlement and class certification for purposes of settlement in this Rule 23 class action/FLSA collective action case. Dkt. No. 19. The parties attached their settlement agreement, dkt. no. 19-1, and explained why they believe the settlement is fair and reasonable. The parties also applied the Rule 23(a) and (b) standard to the proposed Rule 23 class.

The court **FINDS** that the settlement agreement is fair, reasonable, and reflects a reasonable compromise of *bona fide* disputes between the parties. Dkt. No. 19-1.

The court **GRANTS** the parties' joint motion to approve the FLSA settlement. Dkt. No. 19. The court **APPROVES** the settlement agreement at dkt. no. 19-1.

The court **CERTIFIES** the following collective action settlement class under 29 U.S.C. §216(b):

All current and former hourly-paid, non-exempt employees employed by Defendant between June 27, 2016 and June 27, 2019 who have not been compensated for all hours worked in excess of forty (40) hours in a workweek at the proper, correct, and/or lawful overtime rate of pay as a result of Defendant's alleged failure to include the following non-discretionary compensation in said employees' regular rates of pay for overtime calculation purposes: Attendance Bonuses; Health Check 360 rewards; HSA rewards; and Annual Bonuses.

The court **CERTIFIES** the following Rule 23 settlement class:

All current and former hourly-paid, non-exempt employees employed by Defendant between June 27, 2016 and June 27, 2019 who have not been compensated for all hours worked in excess of forty (40) hours in a workweek at the proper, correct, and/or lawful overtime rate of pay as a result of Defendant's alleged failure to include the following non-discretionary compensation in said employees' regular rates of pay for overtime calculation purposes: Attendance Bonuses; Health Check 360 rewards; HSA rewards; and Annual Bonuses.

The court **APPOINTS** Christopher Kraczek to serve as the representative for the certified 29 U.S.C. §216(b) Collective Class and the Fed. R. Civ. P. 23 class.

The court **APPOINTS** the law firm of Walcheske & Luzi, LLC as class counsel for the certified 29 U.S.C. §216(b) Collective Class and the Fed. R. Civ. P. 23 class.

The court **APPROVES** the Notice of Class Action and Collective Action and Proposed Settlement (the "Notice") and Opt-In Consent Form attached as Exhibit B to the Settlement Agreement. Dkt. No. 19-1 at 18-24.

The court **FINDS** that the Notice constitutes the best notice practicable under the circumstances, including individual notice to all Class Members and Collective Members who can be identified with reasonable effort, and that it constitutes valid, due and sufficient notice to Class Members and Collective Members in full compliance with the requirements of applicable law, including the due process clause of the United States Constitution.

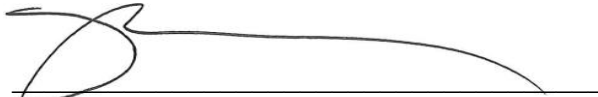
The court **ORDERS** that:

1. Each Class Member who wishes to be excluded from the Settlement Class must opt-out per the instructions in the Notice.
2. Any Class Member who has not properly and timely requested exclusion from the Settlement Class shall be bound in the event the court issues a final order approving the Settlement Agreement.
3. Each Class Member who wishes to be included in the FLSA Collective must opt in per the instructions in the Notice. The parties must appear for a **telephonic fairness hearing on January 7, 2021 at 1:30 PM** to determine whether the court should approve the Settlement Agreement as fair, reasonable and adequate and whether the court should enter the proposed final order approving the Settlement Agreement. The parties should appear by calling the court's conference line at 888-557-8511 and using access code 4893665#.
4. Any Class or Collective Member who wishes to object in any way to the proposed Settlement Agreement must file and serve such written objections per the instructions in the Notice no later than thirty (30) days after the

mailing of the Notice, together with copies of all papers in support of his or her position. The court will not consider objections of any Class or Collective Member who has not properly served copies of his or her objections on a timely basis.

Dated in Milwaukee, Wisconsin this 15th day of October, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge